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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,830	06/13/2005	Johannes-Theodor Menke	KKRT-00101-NUS	6635

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/536,830	Applicant(s) MENKE ET AL.	
	Examiner Gary Estremsky	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>hereto</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Drawings***

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

For the purpose of examination, the drawings of the priority document have been referred to but (copy) drawings must be submitted for this Application.

### ***Claim Objections***

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. Since the claims were part of a pre-amendment forming the 'original' claims of this Application, the claims presented by the pre-amendment have been renumbered consecutively as 1-23 and referred to as such hereinbelow.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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9. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As best understood, limitation is directed to --polybutylene terephthalate--.

Clarification is required.

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1, 7, 12-18, and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. Application Publication No. 2002/0095870 to Praud.

Praud '870 teaches Applicant's claim limitations including : a "vehicle door latch" - 7, a "housing of said vehicle door latch" – as shown in Fig 7 for example, at least one "additional assembly" – including 5, "connected to" – is broad enough to include intermediate elements.

As regards claims 7 and 23, broad limitation of "additional assembly" is anticipated by combination of parts including 5 and 9, and where limitation of "seat" does not patentably distinguish from latch housing structure contacting 9.

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As regards claim 12, the door's inner panel reads on broad limitation for a "common control unit for controlling said vehicle door latch and said additional assembly".

As regards claim 13, the door's inner panel reads on broad limitation for a "control board".

As regards claim 15, basic latching and locking functions that one of ordinary skill in the art would consider to be inherent to the latch of the reference anticipate limitation.

As regards claim 16 only the "opening" function is clearly required to be "electric".

As regards claim 17, its noted that the claim is for a *product*, defined by its structure, not a *process of using*; defined by its steps. A single claim for *product* and its *process of using* would be indefinite and non-statutory. Regardless, it's noted that one of ordinary skill in the art would consider the prior art latch to be inherently capable of being locked and latched at a same time. No particular structure is defined by the limitation that can be relied upon to patentably distinguish from the structure of the prior art.

As regards claim 18, one of ordinary skill in the art would consider the prior art latch to be inherently capable of being locked and latched at different times.

As regards claim 21, "connection" is broad enough to include intermediate elements forming a connection and has not patentably distinguished from the prior art.

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As regards claim 22 instead of part 5 (identified above with respect to claim 1) anticipating "additional assembly" limitation, the handle assembly anticipates broad limitation where it also anticipates claim 22 limitation of "control unit for the door latch".

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2-6, 8-11, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. Application Publication No. to Praud in view of U.S. Pat. No. 6,109,674 to Bartel.

Although Praud '674 does not disclose details of the latch's housing configuration, it is well known in the art to provide a latch with three part housing and cover as illustrated by Bartel '674. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the assembly of Praud '674 to include a latch having details disclosed by Bartel '674 in order to interconnect the elements of the latch and hold them in such a manner that a long service life is insured and manufacture is easy.

As regards claim 5 and 6, broad limitation of "additional assembly" is anticipated by combination of parts including 5 and 9.

As regards claim, 19, broad limitation of "axial support" is anticipated by any surface of the housing that might be relied upon to provide support along an axis, for example, left-most end surface as shown on the face of the Patent.

As regards claims 10 and 11, even though Bartel '674 does not disclose details of the plastic material, it would have been an obvious choice for one of ordinary skill in the art to choose "polybutylterphthalate" with or without 30 volume percent of fiberglass where it's well known that more or less fiberglass provides the finished composite plastic with material properties more or less similar to glass. Otherwise, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 4,603,894 to Osenkowski.

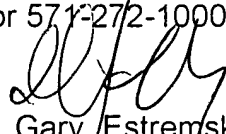
U.S. Pat. No. 6,698,140 to Tatsumi.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gary Estremsky  
Primary Examiner  
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